

Remarks/Arguments:

Claims 21-35 remain for consideration in this application. Independent claim 21 is drawn to a method, claim 28 is directed to a mechanism adapted for use with a vacuum packaging device, and independent claim 32 is drawn to an entire vacuum packaging device. In view of the claims as they now stand together with the remarks hereunder, the rejections of the last office are respectfully traversed.

In the last office action, the claims were rejected on the basis of the patents to Bischoff in view of Titchenal and Natterer. The Bischoff reference was cited for the formation of a slit in the bag making use of a blade 3, whereas the secondary reference to Titchenal was cited for the teaching of a vacuum packaging method wherein an excess portion of the packaging is left to provide a handle.

This hypothetical combination is inapposite to the present claims. First of all and considering the '364 reference, it is noted that the blade 3 is oriented and is operable to cut only through one of the plies of the bag. This is entirely adequate for the purposes of that reference, inasmuch as the single ply cut provides a vent opening for air evacuation only. Further during processing in accordance with this reference, the slit portion of the bag is entirely removed. Note that in the specification the inventor specifically discloses that it is important that the slit not be present in the bag at the termination of the method. Thus, at col. 5, ll. 71-75 and col. 6, ll. 1-3, Bischoff states:

Of course, the electrodes 25 will form the seam 1b' at a level below the slit 4 (Fig. 2) or in the region of this slit *to make sure that the slit disappears when the formation of the bag 1' is completed* (emphasis added).

Thus, Bischoff explicitly teaches away from a condition wherein a slit is maintained in a finished bag to serve as a handle. Hence, any attempted modification of this reference in a manner to maintain the slit in the finished bag is entirely at odds with the teaching of the reference. Thus, no proper § 103 rejection can be based on this reference.

The Titchenal reference does not overcome the deficiencies of the primary reference. That is, Titchenal merely mentions that, if desired, a portion of the sealed-together bag material can be used as a handle. There is no teaching in this reference of having a partial-width, two-ply slit as herein disclosed and claimed.

With the foregoing distinctions in mind, attention is directed to independent claims 21, 28 and 32. These claims have all been identically amended to recite that the positioned bag is defined by two adjacent face-to-face plies. Support for this limitation is found in the specification and drawings, see, e.g., Fig. 10 which shows two plies of the open end of the bag during the slitting operation. Additionally, the claims now recite that the cut line in the bag extends through "both of said plies." Again, Fig. 10 clearly depicts this operation, where it can be seen that the cutting blade 10 extends entirely through the face-to-face bag plies. Of course, it will be appreciated that no effective handle could be provided by a single ply slit as disclosed in the Bischoff reference.

Therefore, not only are the references inapplicable to the present claims, they positively teach away from the claimed methods and apparatus. In view thereof, it is submitted that the claims now clearly define patentable subject matter.

Appl. No. 10/691,244

Preliminary Amdt. dated April 1, 2004

Preliminary Reply to Office Action

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

Respectfully submitted,

By 

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